



**TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION**

DEPARTMENT OF THE TREASURY

INTERNAL REVENUE SERVICE

TE/GE: EO Examination

1100 Commerce Street

Dallas, Texas 75242

Release Number: 201511034

Release Date: 3/13/2015

UIL Code: 501.03-00

Date:

November 19, 2013

Employer Identification Number:

Person to Contact/ID Number:

Contact Numbers:

(Phone)

(Fax)

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Dear:

This is a final adverse determination regarding your exempt status under section 501(c)(3) of the Internal Revenue Code (the Code). Our favorable determination letter dated August 3, 20XX is hereby revoked and you are no longer exempt under section 501(a) of the Code effective March 1, 20XX.

The revocation of your exempt status was made for the following reasons:

IRC 501(c)(3) of the Internal Revenue Code exempts from Federal income tax: corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual...

Treasury Regulation Section 1.501(c)(3)-1(d)(1)(iii) provides that an organization is not organized or operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest.

Treasury Regulation 1.501(c)(3)-1(d)(ii) states that an organization is not organized or operated for one or more exempt purposes unless it serves a public rather than a private interest. Accordingly, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator, shareholders, or persons controlled, directly or indirectly, by such private interests.

You have not established that you are operated exclusively for exempt purposes described in section 501(c)(3) of the Code. Specifically, you have not shown that a substantial part of your activities does not serve the private interest of your officers and other individuals.

Contributions to your organization are no longer deductible under section 170 of the Internal Revenue Code. You are required to file Federal income tax returns on Form 1120. Those returns should be filed with the appropriate Service Center.

Processing of income tax returns and assessment of any taxes due will not be delayed should a petition for declaratory judgment be filed under section 7428 of the Internal Revenue Code.

If you decide to contest this determination, you may file an action for declaratory judgment under the provisions of section 7428 of the Code in one of the following three venues: United States Tax Court, the United States Claims Court or the District Court of the United States for the District of Columbia. A petition or complaint in one of these three courts must be filed before the 91st day after the date this determination was mailed to you if you wish to seek review of our determination. Please contact the clerk of the respective court for rules and the appropriate forms regarding filing petitions for declaratory judgment by referring to the enclosed Publication 892. Please note the United States Tax Court is the only one of these courts where a declaratory judgment action can be pursued without the services of a lawyer. You may write to the court at the following addresses:

United States Tax Court,
400 Second Street NW
Washington, D.C. 20217

US Court of Federal Claims
717 Madison Place, NW
Washington, DC 20005

U. S. District Court for the District of Columbia
333 Constitution Ave., N.W.
Washington, DC 20001

You also have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal Appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law you have to file a petition in a United States court. The Taxpayer Advocate can, however see a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You can call 1-877-777-4778 and ask for Taxpayer Advocate assistance. If you prefer, you may contact your local Taxpayer Advocate at:

Internal Revenue Service
Office of the Taxpayer Advocate

We will notify the appropriate State Officials of this action, as required by section 6104(c) of the Internal Revenue Code.

If you have any questions in regards to this matter please contact the person whose name and telephone number are shown in the heading of this letter.

Thank you for your cooperation.

Sincerely yours,

Nanette M. Downing
Director, EO Examinations

Enclosure:
Publication 892

Internal Revenue Service
Tax Exempt and Government Entities Division
Exempt Organizations: Examinations
100 Myrtle Avenue 6th Floor Group 7910
Brooklyn, NY 11201

Department of the Treasury

Date: July 30, 2013

Taxpayer Identification Number:

Form:

990 Return

Tax Year(s) Ended:

February 28, 20XX

February 28, 20XX

Person to Contact/ID Number:

Contact Numbers:

Telephone:

Fax:

Hand Delivered

Dear :

We have enclosed a copy of our report of examination explaining why we believe revocation of your exempt status under section 501(c)(3) of the Internal Revenue Code (Code) is necessary.

If you accept our findings, take no further action. We will issue a final revocation letter.

If you do not agree with our proposed revocation, you must submit to us a written request for Appeals Office consideration within 30 days from the date of this letter to protest our decision. Your protest should include a statement of the facts, the applicable law, and arguments in support of your position.

An Appeals officer will review your case. The Appeals office is independent of the Director, EO Examinations. The Appeals Office resolves most disputes informally and promptly. The enclosed Publication 3498, *The Examination Process*, and Publication 892, *Exempt Organizations Appeal Procedures for Unagreed Issues*, explain how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

You may also request that we refer this matter for technical advice as explained in Publication 892. If we issue a determination letter to you based on technical advice, no further administrative appeal is available to you within the IRS regarding the issue that was the subject of the technical advice.

If we do not hear from you within 30 days from the date of this letter, we will process your case based on the recommendations shown in the report of examination. If you do not protest this proposed determination within 30 days from the date of this letter, the IRS will consider it to be a failure to exhaust your available administrative remedies. Section 7428(b)(2) of the Code provides, in part: "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for

the District of Columbia determines that the organization involved has exhausted its administrative remedies within the Internal Revenue Service." We will then issue a final revocation letter. We will also notify the appropriate state officials of the revocation in accordance with section 6104(c) of the Code.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

Internal Revenue Service
Office of the Taxpayer Advocate

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Nanette M. Downing
Director, EO Examinations

Enclosures:
Publication 892
Publication 3498
Report of Examination

Form 886-A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
Explanation of Items		
Name of Taxpayer		Year/Period Ended
		20XX
		2010

Issue:

Should _____ tax exempt status under Internal Revenue Code section 501(c)(3) be revoked because its benefits are limited to two families?

Facts:

On March 1, 20XX, a Declaration of Trust was created by _____. The trust was created for religious, charitable, scientific, literary or educational purposes and specifically to raise funds for families whose loved ones are incapable of providing adequate support. No part of the trust fund shall inure to the benefit of any private shareholder or individual.

On April 5, 20XX, the Internal Revenue Service received Form 1023, Application for Recognition of Exemption under section 501(c)(3) of the Internal Revenue Code, from _____. The organization was formed for the purposes of enabling the community to collect funds for distribution to families whose loved ones are incapable of providing adequate support. The application further disclosed that support would be provided to families whose income levels were no greater than the level required for participation in the Family Health Plus or Child Health Plus insurance programs.

By letter dated August 3, 20XX, _____ was granted exemption from federal income tax under section 501(c)(3) of the Internal Revenue Code (the Code), as an organization described in Code sections 509(a)(1) & 170(b)(1)(A)(vi).

During our examination, it was noted that the organization's primary activity is making monetary distributions directly to, or indirectly for the benefit of, two families. It was further determined that the income levels of these families, as was disclosed on the Form 1023 when applying for exempt status, met the thresholds required for participation in the Family Health Plus or Child Health Plus insurance programs. However, our examination determined that these income levels exceed the federal income guidelines used to determine poverty.

Law:

Section 501(c)(3) of the Code provides, in part, for the exemption from Federal income tax of organizations organized and operated exclusively for charitable, religious, scientific or educational purposes; no part of the net earnings of which inures to the benefit of any private shareholder or individual.

In order to qualify under IRC 501(c)(3), an organization must be both "organized" and "operated" exclusively for one or more purposes specified in that section. If the organization fails to meet either the organizational test or the operational test, it is not exempt. (Regs. 1.501(c)(3)-1(a)(1)). The organizational test relates to the rules for governing an organization and the purposes stated in its articles of organization. The operational test relates to the organization's activities.

Section 1.501(c)(3)-1(d)(1)(ii) of the Regulations provides, in part, that an organization is not organized or operated exclusively for one or more of the purposes mentioned in section

Form 886-A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
Explanation of Items		
Name of Taxpayer		Year/Period Ended
		20XX
		20XX

501(c)(3) of the Code unless it serves a public rather than a private interest. An organization may not be exempt if it is operated for the benefit of private individuals.

Section 1.501(c)(3)-1(d)(2) of the Regulations provides that the term "charitable" includes relief of the poor and distressed, advancement of education and science and the promotion of social welfare designed to accomplish any of the above purposes.

Taxpayer's Position:

The organization indicated that it made the decision to provide monetary assistance to only a small number of families in order to have a greater impact on the help the families would receive. The organization recognizes that in limiting its benefits to only two families it fails to provide a public benefit. The organization also recognizes that the income levels of the families receiving benefits exceed the federal guidelines that determine poverty. The organization will agree to a revocation of exempt status.

Governments Position:

is not operated exclusively for exempt purposes (Regs. 1.501(c)(3)-1(d)(1)(ii)) because it serves private interests as opposed to public charitable purposes. monetary disbursements are limited to two designated families and do not benefit a charitable class (Regs. 1.501(c)(3)-1(d)(2)).

Accordingly, we propose to revoke exemption from Federal income tax as an organization described in section 501(c)(3) of the Internal Revenue Code, effective March 1, 20XX.